IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 28686 of 2007(M)

PETITIONER:

M/S.ROYAL PROJECTS-GROUP (ROYAL NEST APARTMENTS)STATUE JUNCTION,THRIPUNITHURA, REP.BY ITS MANANGING PARTNER M.D.UNNIKRISHNAN.

BY ADV. SRI.P.R.RAMACHANDRA MENON

RESPONDENTS:

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1. **STATE OF KERALA , REP.BY THE SECRETRY (TAXES) GOVT.SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE TAHASILDAR, KANAYANNUR TALUK, ERNAKULAM.**

3. **THE VILLAGE OFFICER, NADAMA VILLAGE, THRIPUNITHURA.**

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/10/2007 ALONG WITH WPC NO. 28730 OF 2007 AND WPC NO. 28755 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

ANTONY DOMINIC,J.

W.P (C) Nos. 28686, 28730 & 28755 of 2007

Dated this the 5th October, 2007

J U D G M E N T

The petitioners in these cases are builders who are engaged in construction of apartment complexes. They have been assessed tax under the Kerala Building Tax Act and considering the whole building as a single unit tax is now levied and demanded from the petitioners.

2. Exhibits P3 and P4 are the assessment orders which are under challenge. A reading of these orders will show that the petitioners have been proceeded against the whole amount treating the buildings as one unit. It is the contention of the petitioners that the apartment complexes were constructed by them for individual owners based on individual agreements entered into with them and utilising their contributions. According to them, these agreements, their books of accounts and other documents available with them would show that the assessments should be in the name of individual owners and not the builders. It is on the basis that the assessment orders in these cases are challenged.

3. These issues have been raised in various cases and Ext.P5, P6 and P6 (a) are some of the rendered judgments by this Court, considering identical contentions. In those cases, the assessment orders similar to those impugned in these writ petitions have been quashed and direction has been issued for a fresh enquiry and assessment.

4. On consideration of these cases, I am satisfied that the petitioners herein are also entitled to similar reliefs. Accordingly, I quash Exts.P3, P4 and P4 (a) orders of assessment and Ext. P7 revenue recovery notice in W.P. © 28686/2007 and 28730/2007 and Ext.P8 in W.P (C) No.28757/2007 challenged by the petitioners and direct the 2nd respondent to give an opportunity to the petitioners to produce the agreements entered into by them with the owners of flats. They should also be given a books of accounts and bank statements, deeds and such other evidence that they may want to produce. Based on the documents so produced an enquiry shall be conducted by the Tahsildar and a finding shall be rendered on the liability of building or as to whether the petitioners are entitled to claim the benefit of extension under Section 2 (e) of

the Act. This enquiry shall be completed within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

(ANTONY DOMINIC, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007